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October 17, 2008

Via Facsimile (212 – 805 – 7917) and ECF

Honorable Robert P. Patterson
 United States District Judge
 500 Pearl St., Room 2550
 New York, NY 10007

United States v. Daniel Karron, 07-cr-00541 (RPP)

Dear Judge Patterson:

Pursuant to the Court's suggestion defense counsel met with the Government on October 14, 2008. Unfortunately, the parties could not agree on a loss amount. This letter is submitted in opposition to the Government's loss calculation.

YEAR 1:

The Government claims Dr. Karron misappropriated outside budgeted categories \$147,968 pursuant to Government Exhibit ("GX") 114. *See* GX 114 attached hereto. The Defense submits the totals submitted on GX 114 can not be reconciled with the costs listed in GX 110, which is the claimed source. *See* GX 110 excerpts attached. The Defense submits the following items were misclassified as non-budgeted expenses:

Item	Defense Claim	Loss Amount	Government Claim
Subscriptions	GX 110 Pg. 27 of 44 lists total as \$1,025.31. Defense submits the expenses listed in GX 110 were misclassified as these expenses were for online research necessary for the project. ¹ Therefore, the loss amount is zero.	\$0.	\$43,592.
Capital Improvements	These expenses were misclassified. The proper classification is site preparation. Therefore the loss amount is zero.	\$0.	\$11,248.

¹ The expense dated 3/1/02 related to a conference in New Jersey where Dr. Karron submitted a paper related to the research being conducted on behalf of the project.

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Rent	Defense concedes the rent paid was an unauthorized expense. However, the Government also treats the rent as salary thereby double counting for loss purposes. Therefore, the loss is zero. <i>See</i> pg. 3 at Salary.	\$0.	\$60,000.
Utilities	Dr. Karron's utilities prior to the project were approximately 4,595. <i>See</i> Con Edison detail attached. The increase was directly related to the equipment use on behalf of the project. Therefore, the loss amount should be the difference. <i>See</i> also Trial transcript page 1057 attached.	\$4,595.	\$16,341.
Benefits not allowed	The budget permitted \$51,000 per GX 114. Only \$20,222 was used within the budget and therefore, the Government's loss is zero.	\$0.	\$5751.
Dr. Karron's fringe benefits not allowed	The budget permitted \$59,500 per GX 114. Only \$19,163 was used within the budget and therefore, the Government's loss is zero.	\$0.	\$4,081.
Cleaning – D. Ferrand	D. Ferrand was a sub-contractor and paid as such from the subcontract budget category. Therefore, the loss is zero. The Government concedes there remains \$174,038 of unexpended funds.	\$0.	\$5,019.
Meals	The meals were part of the travel, which was budgeted for \$20,000 per GX 114. Only \$10,914 was used within the budget and therefore, the Government's loss is zero.	\$0.	\$1,938.

Item	Defense Claim	Loss Amount	Government Claim
Salary	<p>As per GX 114, Dr. Karron received \$200,488 as salary while budgeted for \$175,000. However, GX 110 pgs. 38 – 40 of 44 provide the following analysis:</p> <p><u>Loans:</u> \$129,850</p> <p>Defense counsel submits the following loans were misclassified:</p> <p>8/19/02 Salary Advance to Scott Albin: - \$750</p> <p>9/13/02 Partial reimbursement: - <u>15,000</u></p> <p>= \$114,100</p> <p><u>Loan repayment:</u></p> <p>Loan repayment in the amount of \$37,000.</p> <p>See GX 110 pg. 38 of 44 - 37,000</p> <p>Net salary received 8/2/02 in the amount of \$5,675.03</p> <p>(\$30,000 of original loans repaid) - 30,000</p> <p>See attached check 10401 admitted as defense exhibit P6</p> <p>Net salary received per journal entry 9/30/02 in the amount of \$0 (\$37,334.19 was original loans repaid) - <u>37,334.19</u></p> <p>See attached journal entry admitted as part of defense exhibit FFF.</p> <p>= \$9,765.81</p> <p>Hence, \$67,334.22 of the original \$75,000 loan dated 10/26/01 was repaid resulting in an actual loan of only \$9,765.81.</p> <p>9,765.81</p> <p>Rent GX 110 pg. 39 of 44 60,000</p> <p>Salary GX 110 pg. 39 of 44 + <u>35,293</u></p> <p>= \$105,059.39</p>	\$0	\$25,488

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Equipment	All the equipment was recouped by the Government and therefore, Dr. Karron should have this value credited against any loss pursuant to USSG § 2B1.1, <i>cmt. n.3 (E) (i)</i> . Resulting loss is zero.	\$0.	\$79,819.
Material & Supplies	All the materials and supplies were recouped by the Government and therefore, Dr. Karron should have this value credited against any loss pursuant to USSG § 2B1.1, <i>cmt. n.3 (E) (i)</i> . Resulting loss is zero.	\$0.	\$15,364.

YEAR 2:

The Government claims Dr. Karron misappropriated outside budgeted categories \$91,424 pursuant to GX 115. *See* GX 115 attached hereto. The Defense submits the totals submitted on GX 115 can not be reconciled with the costs listed in GX 110, which is the claimed source. *See* GX 110 excerpts attached. The Defense submits the following items were misclassified as non-budgeted expenses:

Item	Defense Claim	Loss Amount	Government Claim
Subscriptions	GX 110 Pg. 21 of 37 lists total as \$1,598.10. Defense submits the expenses listed in GX 110 were misclassified as these expenses were for online research necessary for the project. Therefore, the loss amount is zero.	\$0.	\$31,625.
Capital Improvements	These expenses were misclassified. The proper classification is site preparation. Therefore the loss amount is zero.	\$0.	\$20,118.
Rent	Defense concedes the rent paid was an unauthorized expense. However, this amount may have been included in salary.	\$2,000.	\$2,000.
Utilities	Dr. Karron's utilities prior to the project were approximately \$4,595.	\$4595.	\$17,570.

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	See Con Edison detail attached. The increase was directly related to the equipment use on behalf of the project. Therefore, the loss amount should be the difference. See also Trial transcript page 1057 attached.		
Benefits not allowed	The budget permitted \$51,000 per GX 115. Only \$13,815 was used within the budget and therefore, the Government's loss is zero.	\$0.	\$3792.
Dr. Karron's fringe benefits not allowed	The budget permitted \$44,625 per GX 115. Only \$19,890 was used within the budget and therefore, the Government's loss is zero.	\$0.	\$1,350.
Cleaning – D. Ferrand	D. Ferrand was a sub-contractor and paid as such from the subcontract budget. Therefore, the loss amount is zero.	\$0.	\$3,200.
Meals	The meals were part of the travel, which was budgeted for \$9,000 per GX 115. Only \$3,445 was used within the budget and therefore, the Government's loss is zero.	\$0.	\$2,966.
Supplies	GX 110 pg. 12 of 37 misclassifies these expenses as supplies when they were equipment. See equipment below.	\$0	\$8803
Audit	The audit was a proper "others" expense.	\$0	\$10,000.

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The Government claims Dr. Karron misappropriated within budgeted categories \$105,081. The Defense submits the Government's claim is inaccurate.

Item	Defense Claim	Loss Amount	Government Claim																
Salary	<p>GX 110 pg. 32 – 33 of 37 list the following:</p> <table><tr><td>Payroll</td><td>70,965</td></tr><tr><td>Rent</td><td>2,000</td></tr><tr><td>Loans</td><td>+ <u>14,523.13</u></td></tr><tr><td></td><td>= 87,488.13</td></tr><tr><td>Repayment</td><td>- 9,100</td></tr><tr><td>Repayment</td><td>- <u>9,500</u></td></tr><tr><td></td><td>- 18,600</td></tr><tr><td></td><td>= \$68,888.13</td></tr></table> <p>Defense counsel is unable to determine how salary received of \$146,162 was calculated.</p>	Payroll	70,965	Rent	2,000	Loans	+ <u>14,523.13</u>		= 87,488.13	Repayment	- 9,100	Repayment	- <u>9,500</u>		- 18,600		= \$68,888.13	\$???	\$14,912
Payroll	70,965																		
Rent	2,000																		
Loans	+ <u>14,523.13</u>																		
	= 87,488.13																		
Repayment	- 9,100																		
Repayment	- <u>9,500</u>																		
	- 18,600																		
	= \$68,888.13																		
Equipment	All the equipment was recouped by the Government and therefore, Dr. Karron should have this value credited against any loss pursuant to USSG § 2B1.1, <i>cmt. n.3 (E) (i)</i> . Resulting loss is zero.	\$0.	\$79,819.																

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Dr. Karron should also be credited against loss the amounts he personally contributed using cash contributions, and grant expenses paid using his personal MasterCard and checking account.

Item	Defense Claim	Loss Amount	Government Claim
Cash Contributions	The loss should also be off-set by Dr. Karron's contributions to the grant made using his home-equity line of credit. <i>See</i> checks 1228, 1230, and 1243 attached along with the Chase Statement reflecting a home equity line of credit in the amount of \$200,000.	\$70,000.	\$0
MasterCard and Personal Checking Contributions	The loss should also be off-set by Dr. Karron's grant-related expenses paid for using his personal MasterCard. <i>See</i> attached schedules reflecting CHASE MC 81872 and CHASE CHECKING 916-65.	Approximately \$50,000.	

Respectfully submitted,



Ronald Rubinstein

cc: AUSA Steven Kwok via facsimile (212) 637-2390